

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**BOY SCOUTS OF AMERICA,
Plaintiff,**

v.

**NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURGH, PA.,
Defendant.**

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CIVIL ACTION NO. 3:15-CV-02420-B

**BOY SCOUTS OF AMERICA’S MOTION FOR LEAVE TO FILE ITS PREVIOUSLY
SERVED EXPERT WITNESS DESIGNATION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff, Boy Scouts of America (“BSA”), in the above-entitled and numbered cause, and hereby files this Motion for Leave to File Its Previously Served Expert Witness Designation as set forth below. BSA conferred with counsel for National Union Fire Insurance Company of Pittsburgh, Pa. (“NUFIC”), and NUFIC does not object to this Motion.

RELEVANT BACKGROUND

This insurance coverage action arises from a dispute over the existence and terms of sixteen (16) umbrella and/or excess insurance policies BSA contends NUFIC issued to it. (Dkt. 1 ¶ 1.) BSA filed this action on July 21, 2015, seeking declaratory relief and claiming breach of contract. (Dkt. 1.) The current Scheduling Order required BSA to file its expert witness designation and provide report(s), if any, by July 27, 2016. (Dkt. 29.) BSA served its expert

witness designation and report on NUFIC on that date. (Exhibit A.)¹ Due to a clerical oversight, BSA did not file the expert designation and report on ECF. NUFIC's counsel received the designation and report on July 27, 2016, and did not raise or object to the filing error. NUFIC served a rebuttal designation and report. (Dkt. 35.) When BSA received the electronic filing notice for Defendant's rebuttal witness designation, BSA learned of its oversight. BSA contacted counsel for NUFIC on September 14, 2016 to confer regarding this Motion, and NUFIC's counsel did not object.

BASIS FOR MOTION

BSA seeks an Order granting BSA leave to file its expert witness designation after the date specified in the Court's electronic order. (Dkt. 29). BSA served its expert witness designation, expert report, and all required exhibits on Defendant on the July 27, 2016 deadline specified in the order. BSA is not seeking an extension of the time to designate its expert, merely leave to now file the designation previously served on NUFIC.

NUFIC does not object to this motion. Good cause exists for this motion and it is not sought for delay or any other dilatory purpose, but only to correct a clerical error. No party has been prejudiced by this oversight, as NUFIC received the designation and report on July 27, 2016, did not raise any objection, and served a rebuttal report to BSA's expert report. Further, this motion does not require an extension or modification of any deadlines, and no Party herein would suffer harm or prejudice if this Court grants this Motion.

¹ A copy of the Expert Witness Designation and Expert Report, with exhibits, is attached hereto as Exhibit B.

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff and counsel for Defendant have personally conducted a conference regarding the issues raised in this motion and counsel for Defendant is not opposed to the motion.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that its Motion for Leave to File Its Previously Served Expert Witness Designation is granted, and for all such other and further relief to which they may be justly entitled.

Respectfully submitted,
MCCARTER ENGLISH, LLP

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AMERICA**

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of Defendants' Motion for Leave to File Its Previously Served Expert Witness Designation to all counsel of record for all parties via ECF on the 14th day of September, 2016.

/s/ Lauren Tow

LAUREN TOW